# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/823,431 | 04/13/2004 | Leo M. Pedlow JR. | SNY-T5775.02 | 4023 |

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| EXAMINER |
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| HOMAYOUNMEHR, FARID |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2132 | |

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/823,431 | PEDLOW, LEO M. |
| | Examiner | Art Unit | |
| | Farid Homayounmehr | 2132 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on *5/24/2006*.

2a)☒ This action is **FINAL**.      2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-33* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

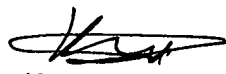**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

KAMBIZ ZAND
PRIMARY EXAMINER

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *Multiple*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

1.      This action is responsive to communications: application, filed 4/13/2004, and

amendment after non-Final Rejection filed 5/24/2006.

2.      Claims 1-33 are pending in the case. Claim 12 was amended.

## Information Disclosure Statement PTO-1449

3.      The Information Disclosure Statements submitted by applicant on 4/25/2006,

7/10/2006, 07/24/2006 has been considered. Please see attached PTO-1449.

### *Response to Arguments*

4.      Applicant's arguments filed 5/24/2006 have been fully considered.

4.1.    Rejection under 35 U.S.C. 112 second paragraph to claim 12 is withdrawn due to

corrections made by the applicant.

4.2.    Applicant's arguments regarding rejection under 35 U.S.C. 102(e) to claims 1-33

is fully considered but are not persuasive.

Regarding claim 1, applicant has argued that So does not meet the requirement of "determining if the request from a terminal having decryption capabilities associated with the first decryption method or the second decryption method". However, the cited portion of So (paragraph 63) clearly mentions "transmitting cable system-specific cryptographic parameters...". This clearly indicates that So has determined the decryption capabilities of terminal, and adjusted the type of encryption process accordingly such that the terminal can decrypt the content and use it. Note that (as mentioned, for example, in the abstract), So's system works with multiple cable systems, each having associated user terminals. Transmitting cable system-specific cryptographic parameters is not possible without determining the terminal decryption capabilities first.

Applicant has further argued that at a point, the instant application selects and stores the first and second portion to be encrypted, but does not call for the call for actual encryption at that point. Applicant argues this is in contrast with So, which calls for pre-encryption using an off-line encryption system, but states no reason to support that argument. Pre-encryption, like any other encryption, involves encrypting a cleartext that is selected and stored, ready to be encrypted.

Applicant further argues that a portion of claim 1 which says "if the request is from a terminal having decryption capabilities associated with the first decryption method, then:

routing the first portions to a first encryption device; routing the second portions around the first encryption device; encrypting the first portions using a first encryption process at the first encryption device to produce encrypted first portions; and assembling a stream of selectively encrypted content from the encrypted first portions and the second portions", is contradictory to teachings of So which uses an OLES to pre-encrypt and store the content. However, So's pre-encryption of content is not in contradiction with claim limitations. Note that the pre-encrypted content (produced by CPS, as described in paragraph 45) is encrypted predicated on the specifics of the cable system and user terminals (see paragraph 51, where it says the CPS prepares content based on requirements of VOD and CAS, and paragraph 52 for CPS working with multiple cable systems or multiple point-to-point systems). Also note that So suggests the use of Selective Encryption (paragraph 106), which involves producing a selectively encrypted stream assembled from an encrypted part and a non-encrypted part of the input stream. Therefore, not only So does not contradict the instant application teachings, it meets the exact claim requirements.

Applicant further argues that So paragraph 106 "provides a quite narrow interpretation of the term "selective encryption" in the sense that encryption is used on packets having a scrambling control field that is set to 1x", and this is in contrast to paragraph 108. However, So's paragraphs 106 and 108 describe two different modes of encryption suggested to be used for encryption, and are not contradicting one another. One is the Full encryption (paragraph 108), and the other is the selective encryption (paragraph

106), which was cited to meet the claim requirement of encrypting the first portion and

not encrypting the second portion to create a selectively encrypted stream. Note that

bypassing the first encryption device simply means not encrypting the second portion.

Therefore, all applicant arguments regarding claim 1 are moot. Accordingly, claims 1 to

10 remain rejected.

Regarding claims 7 and 11, applicant makes the same argument made for claim 1,

which as discussed above is moot. Applicant also argues that So only teaches a single

OLES, presumably capable of encryption using a single encryption algorithm. This is not

true as So works with multiple cable systems and encrypts based on the requirements

of multiple cable systems and point-to-point systems as described in paragraph 52.

Applicants base their arguments relative to claims 12 to 33 on their arguments

regarding claims 1-11. As described above, all applicant's arguments relative to claims

1-11 are moot, and therefore, arguments relative to claims 12-30 are also moot.

In the Concluding Remarks section, applicant argues that So's paragraphs 15 and 16

teach away from techniques that do not use an off-line pre-encryption technique. This is

not true, as So, in the cited sections, simply talks about the cost inefficiency of <u>real-time</u>

encryption systems. Real-time encryption is not a requirement in the claims at hand.

## *Claim Rejections - 35 USC § 102*

5.    The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.    Claims 1 to 33 are rejected under 35 U.S.C. 102(b) as being anticipated by So

(US Patent Application Publication No. 2002/0083438, dated 6/27/2002).

6.1.    As per claim 1, 10 and 17, So is directed to a VOD method (paragraph 45),

comprising: processing content by selecting first portions of the content for encryption

under a selective encryption system and selecting second portions of the content to

remain unencrypted (paragraph 106 discloses use of selective encryption);

storing the first portions;  storing second portions;  receiving a request for delivery of the

content (paragraph 58);  determining if the request is from a terminal having decryption

capabilities associated with a first decryption method or a second decryption method

(paragraph 63, where the CAS system determines cryptographic parameters);  if the

request is from a terminal having decryption capabilities associated with the first

decryption method, then: routing the first portions to a first encryption device;  routing

the second portions around the first encryption device;  encrypting the first portions

using a first encryption process at the first encryption device to produce encrypted first

portions (paragraph 51, where the CPS encrypts the content according to CAS

specifications); and assembling a stream of selectively encrypted content from the

encrypted first portions and the second portions (paragraph 106, disclosing the selective

encryption).

6.2.    As per claim 2, So is directed to the VOD method according to claim 1, wherein

the first portions are stored in a first file and the second portions are stored in a second

file (paragraph 55 discloses storing the content in files of OLES).

6.3.    As per claims 3, 12,  So is directed to the VOD method according to claim 2,

wherein the first and second files are stored in a VOD server (OLES is part of VOD

server).

6.4.    As per claims 4, 13, So is directed to the VOD method according to claim 1,

further comprising streaming the selectively encrypted content to the terminal

(paragraph 59).

6.5.    As per claims 5, 14, So is directed to the VOD method according to claim 1,

wherein the first decryption method comprises a legacy encryption method (per

definition of "legacy" in paragraph 39 of applicant's disclosure, a legacy encryption

method is an encryption method based on existing technology. So's encryption

method's are based on existing technology).

6.6.    As per claims 6 So is directed to the VOD method according to claim 1, wherein

the assembled stream is passed through a second encryption device that is not

provisioned to carry out encryption processing on the stream (according to paragraph

75, multiple encryption keys may be used to encrypt the content depending on

configuration. Therefore, multiple encryption devices are present that may not carry out

encryption if not configured to do so).

6.7.    As per claims 7, 11, So is directed to the VOD method according to claim 1,

further comprising: if the request is from a terminal having decryption capabilities

associated with the second decryption method, then: assembling a stream of content

from the first portion and the second portion;  routing the stream to a second encryption

device;  and encrypting the first portions using a second encryption process at the

second encryption device to produce a selectively encrypted stream (according to

paragraph 51, CPS encrypts content based on CAS specifications. Therefore, if the

client is capable of performing second decryption method, the data will be encrypted

accordingly).

6.8.    As per claims 8, 15, So is directed to the VOD method according to claim 7,

wherein the second decryption method comprises a non-legacy encryption method

(paragraph 55 discloses use of the encryption record, which allows So's system to

flexibly work with any encryption method, by negotiating encryption parameters with the

client before encryption).

6.9.    As per claims 9, 16. So is directed to the VOD method according to claim 1,

carried out under control of a programmed processor (paragraph 59).

6.10.    Claims 18 to 33 are disclosed by So as described by responses to claims 1 to 17.

### *Conclusion*

7.    **THIS ACTION IS MADE FINAL.**  Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

8.      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Farid Homayounmehr whose telephone number is (571)

272-3739. The examiner can be normally reached on 9 hrs Mon-Fri, off Monday

biweekly.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).


*Farid Homayounmehr*

*8/1/2006*

KAMBIZ ZAND
PRIMARY EXAMINER